

Appl. No. 10/072,415
Response to Office Action mailed 03/28/2007

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REMARKS

Applicant appreciates the recognition of allowable subject matter in the present application. Applicant submits this response to cancel the rejected claims in an attempt to place the application in condition for allowance and action to that end is respectfully requested.

Claim 79 stand rejected under 35 USC 102 for anticipation by Hofmann et al. '605. Claims 79-80, 83-85, 88-89, 92, 116, 121 and 123-127 stand rejected under 35 USC 102 for anticipation by Itoh et al. '107. Claims 93-94, 96 and 130 stand rejected under 35 USC 102 for anticipation by Gardner et al. '894. Claims 114 and 122 stand rejected under 35 USC 103 for obviousness over Itoh et al. '107 in view of Itoh et al. '595.

Referring to independent claim 79, the method includes limitations of claim 82. Claim 79 is believed to be allowable in consideration of the indication in the Office action that claim 82 recites allowable subject matter. Applicant respectfully requests allowance of claim 79 in the next Action.

The claims which depend from independent claim 79 are in condition for allowance for the reasons discussed above with respect to the independent claim as well as for their own respective features which are neither shown nor suggested by the cited art.

Referring to independent claim 83, the method includes limitations of claim 128. Claim 83 is believed to be allowable in consideration of the indication in the Office action that claim 128 recites allowable subject matter. Applicant respectfully requests allowance of claim 83 in the next Action.

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The claims which depend from independent claim 83 are in condition for allowance for the reasons discussed above with respect to the independent claim as well as for their own respective features which are neither shown nor suggested by the cited art.

Referring to independent claim 89, the method includes limitations of claim 129. Claim 89 is believed to be allowable in consideration of the indication in the Office action that claim 129 recites allowable subject matter. Applicant respectfully requests allowance of claim 89 in the next Action.

The claims which depend from independent claim 89 are in condition for allowance for the reasons discussed above with respect to the independent claim as well as for their own respective features which are neither shown nor suggested by the cited art.

Referring to independent claim 116, the method includes limitations of claim 131. Claim 116 is believed to be allowable in consideration of the indication in the Office action that claim 131 recites allowable subject matter. Applicant respectfully requests allowance of claim 116 in the next Action.

The claims which depend from independent claim 116 are in condition for allowance for the reasons discussed above with respect to the independent claim as well as for their own respective features which are neither shown nor suggested by the cited art.

Applicants include new claims 132 and 133. New claims 132 and 133 recite limitations of independent claims 79 and 83, respectively and dependent claims 81 and 86, respectively. New claims 132 and 133 are believed to be allowable in view of the indicated allowability of claims 81 and 86.

All of the pending claims are believed to be allowable and Applicant respectfully requests allowance of the application.

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Applicants respectfully request allowance of all pending claims.

Comments On Statement of Reasons for Allowance

Pages 8-9 of the Office Action contain statements of reasons for the indication of allowable subject matter. Applicants objects to and disagree with such statements as including language not included in Applicant's claims. The patent statutes require claims to be presented and interpreted in accordance with what the Applicants regard as their invention. Accordingly, the claims must be read as Applicants regard them (as they are worded). The statements (e.g., see statements with respect to claims 108 and 102) as currently worded might be interpreted later as reading limitations into Applicants' claims which simply are not there or are otherwise inaccurate. In particular, claim 108 does not recite limitations of "providing a gate over the gate dielectric" or "gate aligned with the channel region." Further, claim 102 recites "providing a gate over a channel region without the use of a mask over the gate material." Applicant regards aspects of his invention as defined by the claims.

MPEP §1302.14 (8th ed., rev. 5) states, in part, that where specific reasons are recorded by the examiner, *care must be taken to ensure that such reasons are accurate, precise, and do not place unwarranted interpretations, whether broad or narrow, upon the claims*. The examiner should keep in mind the possible misinterpretations of his or her statement that may be made and its possible estoppel effects.

In accordance with the above, the Examiner must interpret the claims in accordance with their literal wording, and to the extent the Examiner has not already done so, such is mandated now. If the Examiner relies upon allowance based upon language not appearing

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in the claims, the Examiner must reject the claims and suggest insertion of such language.

Then, Applicants can respond as they deem appropriate.

Allowance of the claims as literally worded is urged. If the Examiner's next action is a Notice Of Allowance, this file history is to be interpreted as if the Examiner's statement of reasons for allowance in the last Action never existed or was withdrawn. If the Examiner disagrees with this just stated position, claim rejections are mandated.

The Examiner is requested to phone the undersigned if the Examiner believes such would facilitate prosecution of the present application. The undersigned is available for telephone consultation at any time during normal business hours (Pacific Time Zone).

Respectfully submitted,

Dated: 6/28/07

By: 

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